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OFFICE OF PETITIONS

In re Application of :
Jeremy S. Lee et al. :
Application No. 10/061,979 : DECISION ON PETITION
Filed: January 31, 2002 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: 080129- :
000100US :
Title: BIOLOGICALLY ACTIVE :
METAL-CONTAINING NUCLEIC ACIDS :

This is a decision on the petition filed on August 7, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed, April 26, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees². Accordingly, the above-identified application became abandoned on July 27, 2006. A Notice of Abandonment was mailed on September 11, 2006.

¹ A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² See MPEP §710.02(e).

With the present petition, Petitioner has submitted the petition, issue, and publication fees, along with the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent. The Office of Patent Publication will note the "fee address indication form" which was filed with the present petition, and will further note that PALM records do not reflect that Brian G. Kingwell is an attorney or agent of record.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay³. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

³ See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Decision on Petition under 37 C.F.R. §1.137(b)

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁴. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Steven W. Parmelee
601 Union St Ste 5400
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⁴ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).